



COMMONWEALTH of VIRGINIA

Office of the Governor

Doug Domenech
Secretary of Natural Resources

To: Members of the Chesapeake Bay TMDL Stakeholders Advisory Group

From: Secretary Doug Domenech

RE: Update and Proposed Workplan

Date: May 14, 2010

There has been a great deal of activity related to the Chesapeake Bay TMDL recently and I wanted to bring you up to date and seek your thoughts on a meeting schedule that will move us forward in establishing a Watershed Implementation Plan (WIP) that is right for Virginia.

As I have previously expressed, I am greatly concerned about EPA's missed deadlines for making necessary revisions to the Chesapeake Bay model and refining state target loads this spring and what that slippage in the schedule will mean for our ability to produce a plan that includes sufficient time for internal and public review.

At the recent Chesapeake Bay Principals' Staff Committee meeting in Pennsylvania, I expressed those concerns to EPA hoping they would agree to some flexibility in the final deadline, but to no avail. We expressly stated that Virginia does not agree with EPA schedule. While we will strive to meet the EPA schedule, my first priority is to develop a plan that meets Virginia's needs in a timeframe that works for us.

There remain three main technical issues with the model that must be resolved before the "final" allocations of nutrients and sediments are established.

First, there was a change in the way that nutrient management plans are credited in the model. As a result, it was discovered that no credit was given for most agricultural acres under nutrient management. A correction for this problem is estimated by the EPA modelers to take three months.

Second, a related issue is how the model accounts for "excess" manure that is transported at the county level and will be addressed as part of the corrections related to nutrient management. This is not so much a problem for us in Virginia but other states are concerned.

Finally, as has been reported recently in the press, there are issues with the amount of impervious surface included in the model. In Virginia, our staff noticed a major change in urban acres between the 5.2 and 5.3 versions of the models. We have since found that a similar change occurred in Maryland and other states. The EPA modeling team estimates it will take about two months to make these and related land use changes.

As it stands today, here is the schedule that EPA has established:

1. EPA has dropped the requirement for a preliminary draft WIP on June 1.
2. EPA will provide us State nitrogen and phosphorus allocations on July 1.
3. EPA will provide us Sediment allocations on August 15.
4. EPA's schedule has us providing them our draft Phase 1 WIP by September 1.
5. EPA's schedule gives us a 30 day public comment period on the Phase 1 WIP from October 1 to November 1.
6. Virginia's Final Phase 1 WIP is due to EPA November 29.
7. EPA will announce the TMDL by December 31.

It is important to note that the nutrient and sediment allocations will not be final. The Phase I WIP will be issued with what EPA is calling a "safety factor" that they feel will encompass any adjustments to the allocations that result from the correction of the model issues described above. The nitrogen, phosphorus and sediment allocations and the Bay TMDL would be established using the uncorrected 5.3 version of the model with the so-called safety factor. When the technical issues described above are resolved, the model will be corrected and the Phase 2 and 3 WIPs will use these corrected numbers.

Again, this is EPA's plan. Not ours.

In order to move our WIP development forward and allow for as much input from you as possible, I would propose the following plan:

- Convene a Stakeholder Advisory Group meeting soon to bring you up to date on the latest information on the allocations and schedules and to review some of the internal technical work we have done so far.
- Following the meeting of the full group, I would propose that we hold meetings of "sector" workgroups that, utilizing the agency staff developed draft of enhanced program implementation levels and their expected reductions as a starting point. The workgroups could examine issues and propose various approaches and allocations for agriculture, urban sources, septic and wastewater. I would expect that SAG members will serve as the core of these workgroups and be supplemented by others that you and the agency suggest that have relevant expertise and experience.

- Following these workgroup meetings, I will propose reconvening the SAG with the purpose of reviewing the products of the workgroup and “strawman” drafts of sections of the critical portions of the WIP.

I would like to hear from you about this proposal. Please forward your comments and any other suggestions you might have as we move forward. Please sent your comments by email with the subject line “SAG Next Steps” to russ.perkinson@dcv.virginia.gov

I will work on establishing a date for the next meeting and let you know as soon as possible.